

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS**

DERRICK GIBSON
MSGT, U.S. ARMY,

and

STEVEN BROWN
SSG, U.S. ARMY, *et al*, for themselves
and all others similarly situated

Plaintiffs

V.

LLOYD AUSTIN
Secretary of Defense,
U.S. DEPARTMENT OF DEFENSE
Washington, D.C. 20301

and

**JANET WOODCOCK,
Acting Commissioner,
U.S. FOOD AND DRUG
ADMINISTRATION**

and

XAVIER BECERRA
Secretary of the U.S. Department of
Health and Human Services
**U.S. DEPARTMENT OF HEALTH
AND HUMAN SERVICES**

Defendants

Civil Action No. _____

Declaration of Michael Robert Groothousen Jr., U.S. Navy Reserve

I, Michael Robert Groothousen Jr., Lieutenant Commander, USNR do hereby declare as follows:

1. I am over the age of 18 years, have personal knowledge of the matters set forth in this Declaration, and if called upon to testify to them, I would and could do so competently.
2. I am currently domiciled in Portsmouth, VA.
3. I am a naval aviator in the United States Navy Reserve currently serving at Naval Warfare Development Center (NWDC) Detachment 101 at Naval Station Norfolk.
4. I enlisted in the Virginia Army National Guard in December 1998 and served as an Air Defense Artillerist in the 29th Infantry Division. I completed basic training at Fort Jackson, SC in the summer of 1999. I was discharged in May of 2000 in order to attend the U.S. Naval Academy.
5. Having always wanted to fly, I attended the U.S. Naval Academy and was commissioned in May 2004 as an Ensign. I completed flight school and was winged in August 2006. I then completed the Fleet Replenishment Training Squadron earning the Hawk award as the top student.
6. I was initially assigned to Helicopter Anti-Submarine Light Squadron 42 and deployed as a pilot in support of Operation Iraqi Freedom receiving the Air Medal (Individual Award) for combat missions in Iraq. I was selected to be a Company Officer at the U.S. Naval Academy and completed the Leadership Education and Development master's degree program in May 2011. I spent the following 3 years training future Navy and Marine Corps Officers at the Naval Academy serving as a Company Officer, teaching collegiate courses, executing the performance evaluation system for the entire Brigade of Midshipmen, and leading my peers as a Battalion Executive Officer. I then transferred to U.S. Fleet Forces Command as a Fleet Watch Officer in June 2014.

7. In April 2016 I transitioned to the Navy Reserve and in October 2016 I was assigned to Carrier Strike Group Four Air Command and Control as the Assistant Operations Officer and Senior Offensive Duty Officer Cell Lead. At the beginning of this tour I was promoted to Lieutenant Commander. In October 2000 I was assigned to my current billet at Naval Warfare Development Center Detachment 101 where I have served as the Assistant Operations Officer and Training Officer.
8. Since recruit training, I have now served honorably for 19 years 4 months, and I will continue to do so God willing. During my career I have deployed to Iraq, trained our future Naval Officers, and provided countless hours of training support to the operational forces as a reservist.
9. I submitted a permanent Medical Exemption request in response to the COVID shot mandate based upon my medical history which includes cancer, multiple instances of Bell's Palsy, and a history of migraines and elevated blood pressure. This request was submitted after consultation with my civilian flight surgeon Dr. Mimi Peak.
10. I concurrently submitted a temporary Medical Exemption request as a member of a clinical study being conducted by the Uniformed Services University of the Health Sciences (USUHS).
11. In November 2021 my Commanding Officer and I were informed by Naval Operation Support Center (NOSC) Norfolk medical staff that my temporary exemption request had been approved for the duration of the USUHS clinical study until September 2022. In January 2022 I learned that my permanent exemption request had not be submitted by the NOSC Norfolk medical department. My request was denied in January 2022 and I was ordered in writing to obtain vaccination. I asked about the previously

approved temporary exemption and was told that it was no longer in effect and would need to be resubmitted. I have not received any further information regarding the status of my temporary exemption request.

12. I have been ordered by the doctor that disapproved my permanent exemption request CDR Alband, to become vaccinated.

13. I had COVID in late January which was confirmed by an over the counter Antigen Rapid Test conducted at my civilian workplace on 24 January 2021.

14. I have been told by NOSC Norfolk medical that I am not allowed to appeal the denial of my medical request, and that acquiring natural immunity makes no impact upon my request.

15. I received written denial of my permanent medical exemption request and an order to obtain a COVID vaccination on 5 February 2022 from CDR Alband, who has never met me or seen me in a clinical setting. The written denial and order were transmitted to me by HMC Agueda Martinez who directed that I had 5 days to obtain vaccination. It was at this point that my previously approved temporary exemption came into question and confusion.

16. I am potentially facing a less than an Honorable discharge for my service which could impact my security clearance which is required for my civilian employment, loss of eligibility for VA benefits, loss of my current health insurance, loss of potential retirement, and loss of promotion to Commander that I have already been selected for.

17. I am currently in limbo waiting for a determination about my previously approved temporary exemption request.

18. In addition, I expect the Navy will initiate the Board of Inquiry Process, where I will be required to go before an administrative hearing to determine whether I should be

stripped of my commission and removed from the military for "misconduct." For me and all others unable to get the COVID shot for medical reasons, this allegation of "misconduct" will likely be "substantiated" absent injunctive relief, because they have given us a "lawful order," and denied our accommodation request.

19. At the time of separation, the BOI will determine at what grade I will be separated. Additionally, I will not be eligible to retire until December 1, 2022. Typically for "misconduct," the officer is removed at the grade last "honorably" served, meaning I face reduction to "Lieutenant" for retirement purposes if I am allowed to do so.

20. An officer will not simply be retained, absent the allegation of misconduct being formally found "unsubstantiated," and the BOI and ultimate separation process will not stop without injunctive relief.

21. My vaccination status did not prevent me from continuing to execute the mission of the Navy. During the pandemic, I missed zero drill periods and conducted Annual Training Orders in Support of NWDC. The Navy Reserve has ordered that unvaccinated sailors may not conduct telework and must report in person for all official duties. Further, at the time the mandate was made, I worked as a contractor for Booz Allen Hamilton assigned to NWDC, the same building I work in as a reservist. I sought a medical accommodation through Booz Allen as well which was approved. My understanding is that the Navy was involved in that approval process.

I declare under penalty of perjury, under the laws of the United States, that the foregoing statements are true and correct to the best of my knowledge.

Executed this 20th day of March, 2022.



Michael Robert Groothousen Jr., LCDR USNR